



Comptroller General  
of the United States

Washington, D.C. 20548

334111

## Decision

**Matter of:** Aid Maintenance Co., Inc.; TEAM Inc.

**File:** B-255552; B-255552.2

**Date:** March 9, 1994

Sam Zalman Gdanski, Esq., for Aid Maintenance Co., Inc.; and Richard D. Lieberman, Esq., Sullivan & Worcester, for TEAM Inc., the protesters.

James L. Weiner, Esq., and Justin P. Patterson, Esq., Department of the Interior, for the agency.

Jennifer D. Westfall-McGrail, Esq., and Ralph O. White, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

1. Agency reasonably excluded protester's proposal from the competitive range where, due to the nature of the principal weakness in the proposal, i.e., protester's lack of experience in performing contracts similar in scope, proposal could not have been improved enough through discussions to make it competitive with other higher-rated, lower-priced proposals.

2. Agency properly excluded protester's technically unacceptable proposal from the competitive range without considering its low price since a proposal which is technically unacceptable cannot be considered for award.

### DECISION

Aid Maintenance Co., Inc. and TEAM Inc. protest the exclusion of their proposals from the competitive range under request for proposals (RFP) No. 14-01-0001-94-R-01, issued by the Department of the Interior for custodial and related services at Interior's Main and South Buildings in Washington, D.C. Both protesters object to the agency's evaluation of their proposals.

We deny the protests.

The RFP here sought offers for a fixed-price contract for these services. It advised potential offerors that the technical evaluation would be based on the following factors and subfactors in descending order of importance:

- (a) Experience
  - (1) Experience of the Firm/Corporate Reputation<sup>1</sup>
  - (2) Experience of Managers/Supervisors to be assigned
- (b) Plan of Operation
  - (1) Staffing
  - (2) Reports and Work Schedules
  - (3) Organization Methods and Techniques
  - (4) Phase-In Plan
  - (5) Subcontracting Plan
- (c) Quality Assurance Plan
  - (1) Inspections
  - (2) Corrective Response
  - (3) Response to Complaints

The solicitation stated that award would be made to the offeror whose proposal offers the best value to the government. While the RFP did not specify the weights assigned each evaluation factor, it provided that the experience and plan of operation evaluation factors together would account for approximately 85 percent of an offeror's score and that the firm experience/corporate reputation subfactor would be approximately twice as important as the manager/supervisor experience subfactor. The RFP further advised that in making award, the agency sought offerors whose proposals offered superior technical and management features rather than proposals offering the lowest overall cost, but also advised that the agency would not pay significantly more to obtain slightly superior technical or management features.

Twenty-one proposals were received by the July 21, 1993, closing date. The contracting officer eliminated 4 of the proposals from consideration as nonresponsive and forwarded the remaining 17 to the technical evaluation panel. After reviewing the proposals, the evaluators assigned them the following scores:

Offeror 1	94.50
Offeror 2	91.75
Offeror 3	77.50
Offeror 4	71.00
Offeror 5	65.00
Offeror 6	64.25

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<sup>1</sup>Although the RFP identified experience of the firm/corporate reputation as a single subfactor, the evaluators treated the two elements as separate subfactors in scoring proposals.

Offeror 7	63.50
Offeror 8	62.50
Offeror 9 (TEAM)	60.25
Offeror 10	57.75
Offeror 11	40.00
Offeror 12	40.00
Offeror 13	37.50
Offeror 14 (Aid Maintenance)	34.75
Offeror 15	34.00
Offeror 16	30.25
Offeror 17	23.25

Upon review of the technical evaluations, the contracting officer determined that the tenth through seventeenth-ranked proposals, which received scores of less than 60, were technically unacceptable and incapable of being made acceptable. She therefore eliminated those offers from the competitive range without reviewing their price proposals. The contracting officer then calculated the prices of the remaining 9 offerors for the 5-year contract term,<sup>2</sup> as follows:

<u>Offeror</u>	<u>Technical Score</u>	<u>Total Cost</u>
Offeror 1	94.50	\$ 9,335,026.55
Offeror 2	91.75	7,780,956.15
Offeror 3	77.50	7,138,721.90
Offeror 4	71.00	9,534,710.13
Offeror 5	65.00	8,628,910.00
Offeror 6	64.25	6,611,728.20
Offeror 7	63.50	13,371,249.94
Offeror 8	62.50	14,456,975.60
Offeror 9 (TEAM)	60.25	8,290,265.00

Based on this analysis, she concluded that offerors 7 and 8 did not have a reasonable chance for award given their combination of high prices and relatively low technical scores; she therefore eliminated them from the competitive range. She also determined that the ninth-ranked offeror, TEAM, did not have a reasonable chance of being selected for award and should be excluded from the competitive range as well, since the nature of the principal deficiency in TEAM's proposal--i.e., that it lacked corporate experience in performing custodial services contracts of the magnitude called for here--could not be improved sufficiently through discussions to make it competitive with other offerors whose technical scores were higher and prices lower.

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<sup>2</sup>The solicitation requested prices for a base year and for 4 option years and provided for the evaluation of the option year prices.

Both Aid and TEAM object to the agency's evaluation of their proposals. TEAM contends that the evaluators assigned its proposal an unfairly low score under the "Experience" evaluation factor, and that the contracting officer unreasonably concluded that the proposal could not be sufficiently improved through discussions to be competitive with other lower-priced, higher-rated proposals. Aid takes issue with the agency's evaluation of its proposal under the experience criterion and argues that the agency should not have excluded the proposal from the competitive range without considering its low price.

The evaluation of proposals and the resulting determination as to whether an offer is in the competitive range are matters within the discretion of the contracting activity, since it is responsible for defining its needs and the best method of accommodating them. LRL Sciences, Inc., B-251903, May 3, 1993, 93-1 CPD ¶ 357. In reviewing protests against competitive range determinations, our Office will not reevaluate the proposals for the purpose of substituting our judgment for that of the agency; instead, we examine the agency's evaluation to ensure that it was reasonable and in accord with the evaluation criteria. Id. A protester's mere disagreement with the agency does not render the evaluation unreasonable. Madison Servs., Inc., B-236776, Nov. 17, 1989, 89-2 CPD ¶ 475.

Based on the record here, we conclude that the agency's evaluation of TEAM's and Aid's proposals was reasonable and in accord with the evaluation criteria, and that the agency properly excluded the proposals from the competitive range.

#### TEAM'S PROTEST

The RFP instructed each offeror to submit an outline of the firm's experience over at least the last 7 years in performing custodial services in buildings similar in size and occupancy levels to the Interior buildings. In addition, offerors were instructed to submit references from at least five clients. The solicitation advised that maximum technical consideration would be given to firms with a minimum of 7 years experience in servicing similar buildings and three good references. The RFP also instructed that resumes should be submitted for all proposed managers and supervisors showing experience in managing/supervising cleaning operations similar to the services sought here. In this regard, the RFP required that the project manager have at least 5 years experience (within the past 8 years) in directing cleaning operations similar in size and complexity to the services sought here. The RFP also required that all proposed supervisors have at least 2 years--or, to achieve maximum technical consideration, 3 years--experience (within the past 5 years) in supervising

cleaning operations in buildings of similar size and occupancy level.

The evaluators awarded TEAM's proposal a score of 13.75 (of a maximum possible of 45) under the "Experience" evaluation factor. This score was comprised of a 5.25 score (of a possible 10) under the firm experience subfactor; a 5.00 score (of a possible 20) under the corporate reputation subfactor; and a 3.50 score (of a possible 15) under the manager/supervisor experience subfactor. In awarding TEAM approximately half of the points available for firm experience, the technical evaluation panel noted that the firm did "not have similar experience in similar size and complexity and occupancy level" and that most of its experience had been as a subcontractor, with only two jobs awarded to it as a prime. In awarding the protester only a quarter of the points available for corporate reputation, the panel noted that it had been able to contact only two of the firm's five references<sup>1</sup> and that, although those references were satisfactory, one was for a very small job. The evaluators also noted that TEAM had furnished no references for its proposed supervisors and that the resumes submitted were not detailed.

TEAM takes issue with these criticisms of its proposal. The protester contends that the panel's statement that TEAM did not have experience in buildings of similar size and occupancy level is inaccurate since, as its proposal states, it has been providing custodial services at the Public Health Service Building in Rockville, Maryland (the "Parklawn Building"), a building larger than the Interior buildings, since January 1992. The protester also argues that the panel unfairly downgraded its proposal on the ground that much of its experience had been as a subcontractor. In addition, TEAM argues that, contrary to the evaluators' comments, it submitted detailed resumes for its proposed supervisors, and included references. The protester hypothesizes that the evaluators may have overlooked these resumes, which were included in an attachment to the proposal.

Based on our review of TEAM's proposal and the evaluation record, we conclude that the agency's decision to exclude TEAM from the competitive range was justified, and its

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<sup>1</sup>Two of TEAM's references were for short-term jobs (2 months each) at a shopping mall; when the individual responsible for cleaning services at the mall was contacted, he reported that he was unaware of previous work by TEAM. The remaining reference was for a Sears store which had gone out of business between the time TEAM submitted its proposal and the date on which the agency checked its references.

scoring of the proposal was reasonable. First, the record shows that the panel regarded TEAM's experience at the Parklawn Building as relevant and significant. The evaluators awarded TEAM more than half of the available points under the firm experience subfactor, based primarily on the protester's performance record at this facility. Second, we do not think it was unreasonable for the agency to give subcontract experience less weight than experience gained as a prime contractor. As the agency points out, there is a qualitative difference between being responsible for overall management and coordination of a job as a prime contractor and performing only a portion of the work as a subcontractor. See ARTEL, Inc., B-248478, Aug. 21, 1992, 92-2 CPD ¶ 120.

Finally, we think the agency reasonably awarded TEAM a relatively low score under the corporate reputation subfactor despite the favorable references that it received for its work at the Parklawn and National Senatorial Committee Buildings. According to the evaluators, the work performed by TEAM as a subcontractor at the latter location --which required only 1 or 2 employees--was sufficiently dissimilar to the effort required under this solicitation that even the favorable references did not carry great weight.<sup>4</sup> It was appropriate for the agency to consider the degree of similarity of the work effort in determining how much weight to give a particular reference. We also think that the evaluators were justified in awarding the protester's proposal less than full weight for the Parklawn reference since TEAM had been furnishing custodial services at that location for only 2 years.

With regard to the evaluation of TEAM's proposal under the managerial/supervisory experience subfactor, it is clear that--contrary to the protester's conjecture--the evaluators did review the resumes submitted for TEAM's proposed supervisors<sup>5</sup> and reasonably downgraded the proposal based

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<sup>4</sup>The agency also argues that the protester would not have been able to increase its score under the corporate reputation subfactor significantly even if had received an opportunity to furnish an up-to-date telephone number for its Sears reference because of the dissimilarity between the cleaning services sought here and those required in a retail environment like Sears. In our view, this conclusion is reasonable.

<sup>5</sup>It is clear that the evaluators reviewed the resumes because the notes of each individual evaluator contain references to information that was presented only in the resumes. For example, two of the evaluators note the

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on the lack of detail in these resumes as to the size and occupancy levels of the buildings in which the proposed supervisors had previously directed work. The RFP here required all supervisory personnel to have at least 2 years of recent experience supervising cleaning operations in buildings of the same approximate size and occupancy level as the Interior buildings. Since TEAM furnished no such information about the buildings in which its proposed supervisors previously worked, we think the evaluators properly downgraded its proposal under this evaluation subfactor.

While TEAM is correct in its assertion that the agency unfairly criticized its proposal for failing to furnish personal references for supervisory employees when the RFP did not require such references, we do not think TEAM was prejudiced by the agency's downgrading of its proposal on this basis. TEAM was excluded from the competitive range not strictly on the basis of its technical score (which might have increased marginally if the evaluators had recognized that the RFP only required personal references for the project manager, and not for other supervisory personnel), but because of its lack of experience performing custodial services contracts of this magnitude, a lack it could not expect to cure through discussions. See S and T Servs., B-252359, June 15, 1993, 93-1 CPD ¶ 464. Given TEAM's lack of experience performing similar contracts, we agree with the agency that the protester could not have improved its proposal enough through discussions to have a reasonable chance of receiving the award. Thus, we conclude that the agency properly excluded it from the competitive range. Federal Acquisition Regulation § 15.609(a); American Sys. Corp., B-247923.3, Sept. 8, 1992, 92-2 CPD ¶ 158.

#### AID'S PROTEST

With respect to AID's challenge to its exclusion from the competitive range, we note that under every evaluation subfactor other than corporate reputation (for which AID received a perfect score of 20), AID's proposal received marginal scores. In some areas, in fact, AID's scores were very low: a 7.25 (of 35) for the plan of operation factor, a 4 (of 20) for the quality assurance plan factor, a 3.5 (of 10) for the firm experience subfactor, and 0 (of 15) for the manager/supervisor experience subfactor.

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<sup>5</sup>(...continued)

experience of one of TEAM's proposed supervisors in managing delivery services at a public library, information which was mentioned only in that individual's resume.



The protester does not take issue with the scoring of its proposal under the plan of operation and quality assurance plan evaluation factors, nor does it dispute the score that it received for its firm experience. Rather, it argues that the score that it received for the experience of its proposed supervisors (0 points) was irrational given the high score (20 of 20 points) it received under the corporate reputation subfactor.

Based on our review of the record, we conclude that it was reasonable for the evaluators to assign Aid's proposal a score of 0 for its managers and supervisors. First, although Aid submitted six resumes with its proposal, it identified only two of the individuals as proposed supervisors for this job. (The remaining four individuals appear to hold management and marketing positions within the company.) Second, the resumes of the two individuals who were identified as proposed supervisors did not include information establishing that these employees had at least 2 years recent experience directing cleaning operations in buildings of similar size and occupancy levels. Moreover, since the agency based its personnel scores on the proposal and resumes submitted--which clearly did not meet the requirements of the RFP--we do not think it was inconsistent for the evaluators to award Aid a high score for corporate reputation, while awarding it a score of 0 for the experience of its proposed supervisors. In short, there was no indication in AJD's proposal that the individuals who had served in a supervisory capacity under the contracts for which the firm had received favorable references would be working on this job.

We also note that even if Aid's proposal had received a perfect score of 15 under the supervisory experience subfactor, its overall score would have been 49.75--well outside the competitive range. Thus, the agency would still have found the proposal technically unacceptable and excluded it from the competitive range. Regarding Aid's argument that the agency should not have excluded its proposal from the competitive range without considering its price, the protester's price is irrelevant since once a proposal is found technically unacceptable, it cannot be considered for award. Nevada Automotive Test Center, B-251137, Mar. 9, 1993, 93-1 CPD ¶ 216.

The protests are denied.

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